

Minutes of the Kansas Sentencing Commission Conference Call March 24, 2006

The Honorable Ernest L. Johnson, Chairman, called the Kansas Sentencing Commission meeting to order on March 24, 2006, at 12:35 p.m., once a quorum had been obtained. The meeting was held via Conference Call.

Participants

Members: Honorable Ernest L. Johnson, Chairman; Paul Morrison, District Attorney, Vice Chairman; Honorable Larry Solomon; Honorable Christel Marquardt; Representative Janice Pauls; Roger Werholtz, Secretary of Corrections; Marilyn Scafe, Kansas Parole Board; Annie Grevas, Director of Community Corrections, 28th Judicial District; Chris Mechler, Office of Judicial Administration; Kevin Graham, designee, Office of the Attorney General; Rick Kittel, Board of Indigents' Defense Services; Kathleen Lynch, Private Defense Attorney; Reverend Junius Dotson, Public Member; Captain Dale Finger, Public Member. Staff: Patricia Biggs, Executive Director; Natalie Gibson, Staff Attorney; Kunlun Chang, Research Director; Fengfang Lu, Senior Research Analyst; Lora Moison, Research Analyst; Brenda Harmon, Administrative Assistant; Janice Brasher, Grant Administrator; Marty Schmiedeler, Accountant; Jennifer Dalton, Research Analyst. Guests: (all from Johnson County Department of Corrections) Mike Youngken; Susie Rowland; Tony Booker; Ron Walker; Tom Dugan.

Welcome New Commission Member

Chairman Johnson introduced and welcomed Captain Dale Finger to the Commission. He is with the Leawood Police Department.

Approval of the Minutes

The Chairman referred to the minutes of the January 20, 2006, Kansas Sentencing Commission meeting. A motion was made to approve the minutes by Ms. Chris Mechler and seconded by Ms. Kathleen Lynch. The motion carried.

Johnson County Therapeutic Community Billings under Senate Bill 123 (*"The Budget Committee directs the agency to report on this issue during Omnibus" – Notation from House Budget Committee Recommendation for FY 2006; Budget page number 365; FY 2006 and FY 2007 Public Safety Budget Committee Reports*)

Ms. Biggs began the discussion by providing the following background information:

- KSC began receiving billings in January, 2006, for the Johnson County Therapeutic Community placement of SB 123 offenders.
- The only Therapeutic Community that exists to serve that population presently is in Johnson County and this program is certified by the Department of Corrections to deliver SB 123 treatment services.

- Up until this time, 123 offenders in the Johnson County TC had been paid for by a Byrne Grant obtained by Johnson County Community Corrections.
- The current invoices bill the 123 program at \$150 per day for TC services.
 - Johnson County indicates this rate was derived from a cost-benefit study conducted by the Docking Institute at Fort Hays State University commissioned by the Criminal Justice Coordinating Council.
- These invoices, which are anticipated to total approximately \$500,000 for FY 2006, were unanticipated by the Sentencing Commission.
 - Mention of this was made at the budget hearings on both the Senate and House side. We were instructed by those Committees to make sure we reported back to them by Omnibus as to the status of what we were going to do to handle these billings.
- Ms. Biggs sent a letter (copy provided to Commission members) asking Mr. Youngken, Director of the Johnson County Community Corrections Adult Residential Center, to describe their TC program thereby providing Johnson County with an opportunity to respond with any other materials they thought would be appropriate for KSC to have. They did respond in a letter (copy provided to Commission members).
 - Ms. Biggs drew Commission member's attention to one item that Johnson County highlighted in their letter of response. It states "The Subgrantee shall not use any JAG grant funds to treat criminal offenders eligible for treatment under SB 123. The Subgrantee shall maintain detailed records and supporting documentation verifying the separation of these two funding sources." (The Byrne grant is a JAG grant.)
- Secretary Werholtz Chairs the Criminal Justice Coordinating Council, and explained why programs are being weaned off Byrne grants (the President's current budget zeroed it out).
 - The Governor's Office grants staff took direction from the Coordinating Council and applied that stipulation to the Johnson County TC grant. It had nothing to do with who supervised it, or any action KSC did or did not take. It is just a function of the fact the Byrne money is rapidly going away. KSC did not plan for this because they had no knowledge anything had changed with the status of the Byrne grant, and were under the assumption the past was indicative of the future, and the Byrne grant would continue to pay for SB 123 offenders.
- When Mr. Youngken signed an agreement stating they could no longer use the Byrne grant for SB 123, he assumed everyone else also knew.

The major concern at the moment is this projected \$500,000 worth of billings received from Johnson County for FY 2006 that are not in the current budget.

The following Options were discussed:

A: Keep building the case for the additional appropriations.

B: Wait until the end of the year and then pay out anything that was left in the pot.

C: Start dipping into the FY 2007 money to meet FY 2006 obligations.

Secretary Roger Werholtz made the following motion: Keep the Johnson County Therapeutic Community claim discreet from any other SB 123 billings, and not pay any part of it out of existing funds. Use existing funds for providers that were budgeted for and that have billed. Go to the Legislature with that Johnson County TC discreet unpaid bill and explain what happened with the Byrne grant funding, and ask the Legislature to fund that bill entirely over and above the amount they have already budgeted for SB 123 treatment. Judge Larry Solomon seconded the motion. The motion carried.

Secretary Roger Werholtz made a second motion to have the Sentencing Commission leave researching additional options, other than the motion above, for later, and listen to what kind of feedback is received when making the request to the Legislature. As part of that, there may be some discussion about other possible options. Ms. Annie Grevas seconded the motion. The motion carried.

Ms. Chris Mechler made a motion to set the reimbursement rate for the Therapeutic Community at \$150 per day. Mr. Kevin Graham seconded the motion. The motion carried.

Commission bills on Johnson County Pilot Project and Statewide Standardized Risk/Needs Assessment (Senate Bill 434) - update

Ms. Biggs provided the following update: SB 434 was the Johnson County Pilot Project extension bill. SB 435 was the bill that looked at doing the statewide Risk Needs Assessment instrument as determined by the Sentencing Commission. They were both Senate bills when introduced. When they went to the House, they took the contents of SB 435 and combined it in with SB 434. The one bill now contains both provisions.

Once combined, the Johnson County Pilot Project was extended to July 1st, 2008, and the statewide standardized Risk Needs Assessment would begin July 1st, 2007. This didn't make sense (doing a Pilot Project for the rollout of the statewide standardized Risk Assessment Instrument and extending that Pilot Project for one year beyond when the statewide rollout was to occur). Ms. Biggs coordinated with Representative Pauls and requested that the date of implementation for the statewide rollout be matched with the extension for the Johnson County Pilot Program. The Johnson County Pilot will now terminate July 1, 2008. The statewide standardized Risk Needs Assessment will begin July 1, 2008.

Possible amendments House Bill 2231 – discussion

Chairman Johnson discussed HB 2231. He expected to receive amendment information concerning this bill that has not been received. The bill deals with drug level 4 offenders being able to seek parole. This bill has been tabled through Senate Judiciary.

Deferred from last meeting – Data request: University of Pennsylvania, Claire S.H. Lim, economist conducting research about judges’ sociological characteristics and criminal sentencing outcome

Ms. Biggs provided the following background: This is an economics student from the University of Pennsylvania. She wrote to the KSC in December, 2005, requesting data sets (CD files) so she can run her own analysis. Her interest is in conducting research about judges’ sociological characteristics and criminal sentencing outcomes. She has specified data set elements from 1997 to 2005. She has been in frequent contact, both by email and by phone, and expresses an urgent need due to a deadline.

Past practice has been to receive approval of the Commission as to whether or not we release information containing judge specific data. The last time we released data for a researcher, we charged \$100 per hour for preparation of those data sets. The estimate for this request is that it would take no less than 30 hours. KSC does not have in place a process by which we review a research proposal and make any determination as to the soundness or appropriateness of the research that is being proposed to be conducted. That assessment would be made strictly from a research methodological stance and not from the stance of whether or not the data request was deemed worthy to be researched or not.

Following a lengthy discussion, a motion was made by Reverend Junius Dotson to respond to this data request with the information being requested after we receive a prepayment of one-half of the estimated charges which would be billed at \$100 per hour. Ms. Biggs will do a more thorough estimate of time/cost involved for the invoicing. A schedule will be set which is mutually agreeable, which takes in to account the priorities (such as Legislative Session) the Commission staff has. A second was made by Vice Chair Paul Morrison. The motion carried.

Next Meeting

The next Commission meeting is scheduled for Friday, May 12th at 1:30 pm.

Ms. Chris Mechler made a motion to adjourn the meeting. Mr. Kevin Graham seconded the motion. The motion carried, and the conference call was adjourned.